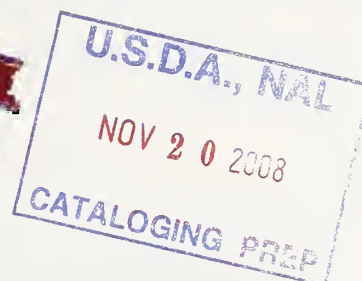


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FY 2001 ANNUAL REPORT FOR THE SECRETARY OF AGRICULTURE: ALTERNATIVE DISPUTE RESOLUTION

Submitted by the USDA
Conflict Prevention and Resolution Center
April 2002

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Attachment:

“Dealing with Workplace Conflicts and Concerns – A Guide for Employees”

Executive Summary

Some degree of conflict in an organization is inevitable – even healthy. Yet, if not managed effectively, conflict saps vital resources in federal agencies, costing them millions of dollars to respond to EEO complaints, grievances, administrative appeals, litigation, and other workplace and program conflicts. Unmanaged conflict also results in reduced productivity, low employee morale, and low customer satisfaction. Unfortunately, when it comes to conflict, USDA is no exception.

In USDA, the Alternative Dispute Resolution (ADR) programs have taken significant steps toward changing the way USDA manages conflict. They have begun to build a strong foundation for preventing destructive conflict and, when conflict occurs, bringing it to a conclusion that all parties perceive as fair and equitable. Resolving conflict early can help maintain or restore relationships, both in the workplace and with users and recipients of USDA program services, while at the same time avoiding the costs of litigation, administrative hearings, or investigations.

The following are some statistics for ADR program successes in FY 2001:

- Over 5,000 USDA employees received training in ADR and conflict management.
- Over 5,000 USDA employees received services from an ADR program for a workplace conflict.
- 83.7% of all workplace conflicts that used any form of ADR at the early intervention stage (before a complaint or grievance was filed) were successfully resolved.
- 79.3% of all workplace conflicts that used mediation at the early intervention stage were successfully resolved.
- 82% of the 4,400 program conflicts handled by the USDA Certified State Mediation Program resulted in an agreement.
- 67.1% of all formal EEO complaints that went through ADR were settled.
- 54.5% of all informal EEO complaints that went through ADR were settled.

This and other data are broken down by agency in **Appendix A, FY 2001: Summary Data by Agency**. Additional FY 2001 accomplishments supporting the development of USDA's ADR program (e.g., policies, E-government initiatives, conferences, etc.) are summarized in **Appendix B**, and described in greater detail in **Appendix C**.

The following are some opportunities for USDA to receive greater benefit from the use of ADR and other collaborative processes:

- Only 165 of the 1,509 informal EEO complaints filed in FY 2001 (11%) went through ADR, and only 90 (6%) were settled through ADR.
- With the exception of disputes involving agricultural loans, the use of ADR to resolve disputes between USDA and the recipients of the range of USDA program services is minimal.
- Increased awareness and early use of ADR could result in more workplace disputes being resolved without resort to the more adversarial systems and without incurring the costs associated with those systems.
- Greater focus on initiatives that promote collaboration and, where permissible, consensus-building with private, state, and other federal parties – processes like negotiated rulemaking, partnering, community forums, and facilitated dialogues – could result in improved relationships, greater acceptance of USDA decisions, and a decrease in litigation and workplace violence.

Ultimately, to reduce the avoidable costs of conflict, a change is needed in how we at USDA respond to conflict – that is, a change in culture. This involves changing how employees view conflict, how peers respond to conflict within agencies and across agency lines, how supervisors manage employees, how agencies explain USDA programs and decisions to customers, and how we seek to implement and enforce our regulations. Such work takes years and involves profound organizational changes. With leadership and vision from USDA's highest levels, such an effort could serve as a model for the rest of government.

There is no better time than the present for USDA to take actions aimed at becoming an organization that maximizes the use of collaborative approaches to solving problems in the workplace, with other federal entities, and with the public.

Throughout this report, text boxes like this will appear containing anecdotal evidence of the success of ADR and conflict management initiatives at USDA.

I. Introduction

This Annual Report for the Secretary of Agriculture on Alternative Dispute Resolution (ADR) is submitted in accordance with the Department of Agriculture's (USDA) Delegations of Authority, 7 C.F.R. §§ 2.24, 2.94, and ADR Regulation, DR 4710-001. The Conflict Prevention and Resolution Center (CPRC), which submits this report, was established in 1998 to lead and coordinate conflict management and ADR efforts throughout USDA. ADR programs exist in all USDA agencies and mission areas, and vary in both scope and level of activity.

USDA's ADR programs focus on assisting employees in resolving conflicts, among themselves and with customers, early, collaboratively, and effectively. Some key benefits of prevention and resolution of conflict in USDA are:

- Saving money that might otherwise be expended in the processing and settlement of litigation, grievances, and other more formal types of disputes;
- Improving morale and productivity of USDA employees;
- Strengthening relationships with USDA customers and in the workplace; and
- Promoting a work climate that fosters collaborative problem solving.

ADR is an informal approach to resolving conflict that focuses more on parties' underlying "interests" and less on their litigation or adversarial "positions." In ADR processes, neutral third parties ("neutrals") assist those in conflict in resolving their differences. Neutrals can be USDA employees, employees of other federal agencies, or contractors. Parties that utilize ADR to help resolve their conflicts tend to be more accepting of resolutions because they have a voice in the outcome, and thus compliance with agreements is high. Some of the most widely used ADR processes at USDA are mediation, conciliation, fact-finding, and group interventions.

By no means is ADR the *only* method of addressing conflict; organizations need a variety of ways to address their different types of conflict. Some of the other methods by which USDA addresses conflict are:

- Proactive supervisors and/or employees seek to address their problems at the earliest stages through direct, unassisted communications;
- In the equal employment opportunity (EEO) complaint process, an EEO counselor assists in settling discrimination complaints; and
- The National Appeals Division hears and decides certain program appeals.

However, whether because direct communications have not yielded positive outcomes, or because going through an adversarial complaint or appeal system is considered an undesirable option, ADR should frequently be considered as an effective alternative.

II. FY 2001 Accomplishments

A. WORKPLACE CONFLICT

Workplace conflict can occur among employees, between employee and supervisor, or even within entire work units. At USDA, workplace conflict can take the form of EEO complaints, grievances, labor-management disputes, or simply interpersonal conflict.

In FY 2001, USDA's ADR programs served over 10,000 employees by offering a variety of ADR and other conflict management services. These services fell within three principal categories: (1) ADR services provided at the earliest possible stage of conflict; (2) ADR services provided in the EEO complaint process; and (3) conflict management training.

1. **ADR in the Early Intervention Stage of Conflict:** Since 1998, USDA policy has required all agencies to make ADR services available to all employees as a means of resolving workplace disputes early, without the necessity of first filing an EEO complaint or grievance. As more agencies have established, emphasized, and improved their early intervention ADR programs, a growing number of disputes have gone through and been resolved in ADR (*see Tables 1-3*).¹

TABLE 1: FY 2001 Workplace ADR Services (Early Intervention)

Type of ADR service	Number of events	Number of people served (estimate)
Consultation	2,984	2,984
Mediation	410	820
Other ADR *	249	498
Group interventions	91	941
Total	3,734	5,243

* Includes conciliation, facilitation, fact finding and other ADR processes.

In consultations, an individual receives information, advice or coaching from a conflict resolution specialist on a tense or challenging workplace situation. The goal is for the individual to feel empowered and more knowledgeable on how to deal with that situation. No "agreement" is reached in a consultation, since the other party to the conflict is not participating or present. While data on the outcomes of consultations is difficult to collect, this can be a cost-effective and non-threatening way to help defuse a situation. Close to 3,000 USDA employees utilized this service in FY 2001.

¹ Agency and mission area early intervention programs operate under a variety of acronyms – CPR, EIP, CRP, VDIP- all reflecting the concept of early intervention.

TABLE 2: FY 2001 Workplace ADR Agreements (Early Intervention)

Type of ADR	Total requests for ADR	Total number of ADR cases	Agreements reached	% of ADR cases that reached agreement
Mediation	557	410	325	79.3%
Other ADR	Not collected	180*	163	90.6%

* This number is smaller than the "Other ADR" figure of 249 in Table 1 because some ADR processes, by their nature, are designed to help in resolving conflict, but not necessarily through a written "agreement".

At USDA, the most commonly used ADR process in which parties to a workplace dispute meet face-to-face is mediation. In FY 2001, 557 employees requested mediation in the early intervention stage of conflict. Of those requests, 410 went through mediation and, of that number, 325 (79.3 percent) reached an agreement. This high rate of successful outcomes matches the best results of other federal ADR programs. The reasons that not all mediation requests end up in mediation vary: sometimes the conflict was resolved prior to mediation, sometimes the second party refused to mediate, sometimes the requesting party had a change of heart. When other (non-mediation) forms of ADR were used, such as conciliation, agreement was reached 90.6 percent of the time. The blended resolution rate for mediation and other ADR processes was 83.7 percent.

The early intervention program (CPR) was requested by employee relations and workplace violence prevention officials to facilitate the return of an employee after an allegation of potential violence in the workplace. The employee was served with an official letter of reprimand upon his return. CPR served as facilitator to difficult conversations between the employee and management regarding management's expectations of the worker. CPR's presence proved very successful in beginning positive communications between management and the employee.

TABLE 3: Increasing Mediation Usage in Workplace Conflicts (Early Intervention)*

Mediation	Mediations held	Agreements reached	% of mediations resulting in agreement
FY 1999	269	220	81.8%
FY 2000	378	306	81%
FY 2001	410	325	79.3%

* Due to the lack of complete data from earlier years for ADR processes other than mediation, we cannot demonstrate the extent of the growth of other ADR processes, although we have reason to believe that the growth is significant. The 1999 figure of 269 may include some conciliations.

Significantly, the number of early intervention mediations increased by over 50 percent between 1999 and 2001. During that same period, the rate of resolution was consistently around 80 percent. Thus, an increasing number of conflicts are being resolved early through mediation.

A growth area of note is group conflict resolution, involving teams or other work units. Seven agencies that used ADR services to assist large groups that were engulfed in conflict were AMS, APHIS, DA/OSEC, FAS, Forest Service, FSA, and REE. CPRC has begun gathering data on the

number of individuals served in large group ADR efforts. While comprehensive data on the effectiveness of the group interventions has not yet been collected, some anecdotal information is likewise beginning to surface.

In an office of eight people, conflict among employees and with the supervisor had everyone complaining. The group ADR process involved interviewing everybody, sorting out the various issues, and checking with the team to make sure all the issues were identified. What followed was a mix of working on issues and providing training as needed, so that the team would have the skills needed to carry out the plan they chose. The outcome was a plan that has greatly reduced conflict for all employees.

* * * * *

An e-mail response from a participant in a two-day large group conflict management effort read: "Thanks again for all you did, we can notice the difference already. It's a much nicer place to work. We just all have to work at keeping it this way."

Given the number of known workplace conflicts at USDA – those that have entered one of the complaint or grievance systems, for example – it seems evident that there are many opportunities for conflicts to be resolved in the early intervention stage that are being missed. One of the goals of early ADR usage is to reduce the number of EEO complaints and other more formal workplace grievances that are filed. Anecdotal evidence from different early intervention programs suggests that some mediations and other ADR processes have indeed prevented the filing of EEO complaints. More extensive evaluation is necessary to document both the successes and missed opportunities in these areas. (See Section IV A and D).

2. ADR in The EEO Complaint Process: In addition to being available in the very earliest stages of conflict, ADR is also available in the established dispute resolution systems, in particular the EEO complaint process. In this past year, ADR usage in the informal and formal stages of the EEO complaint process saw a modest increase.

TABLE 4: FY 2000 and 2001 EEO-ADR Activity

EEO Status	# EEO complaints	# complaints offered ADR	# complaints that went through ADR	# complaints settled in ADR	% of ADR cases settled
Informal FY 2000	not available	not available	141	74	52.5%
Informal FY 2001	1,509	706	165	90	54.5%
Formal FY 2000	782	not available	56	26	46.4%
Formal FY 2001	806	91	76	51	67.1%

The statistics for FY 2001 show some success in, as well as untapped potential for, using ADR in EEO complaints. In the informal stage of the EEO complaint process, 54.5 percent were settled through ADR. In formal complaints, the settlement rate was 67.1 percent. On the other hand, the percentage of complaints utilizing ADR in both stages is relatively small.

There had been several informal EEO complaints initiated against the chief in one division. The chief sought and was provided assistance from the ADR Program Manager, who suggested that having several complaints initiated by different individuals is an indication that there might be other problems within the organization. We met with supervisory and non-supervisory employees in separate and joint sessions. As a result, we were able to identify an array of issues and concerns and assisted the parties with addressing them. The result was the resolution of approximately half of the individual informal EEO complaints that had been initiated against the division chief. As a result, USDA saved the cost of the investigation and other costs associated with processing EEO complaints. The resolutions sought and agreed upon did not result in money or any guaranteed promotions. No payout was sought or paid.

The Office of Civil Rights reports that 1,509 informal EEO complaints were filed in FY 2001. CPRC's data indicates that ADR was offered in 706 of those complaints (47 percent). Of those, 165 complaints actually went through ADR. Only 90, or 6 percent of all informal EEO complaints filed, were settled through ADR. It should be noted that EEO counseling, rather than ADR, has been the traditional method of addressing informal EEO complaints, and a number of EEO complaints are resolved in counseling. However, USDA should achieve much greater growth in the use of ADR in the EEO complaint process, and derive greater benefit from the unique value that ADR brings to the resolution process.

One agency's ADR program reports on collaborative efforts to improve the use of ADR in the EEO complaint process:

"While overall usage of the agency's ADR program is increasing, we remain concerned that there is not more usage of the program in trying to settle discrimination complaints. Only about 26% of complaints in FY 2001 through the third quarter chose ADR. We are working closely with the agency's EEO program and employing new marketing tools to try to increase the visibility and understanding of ADR so that complainants can make a fully informed decision on the best way to address their concerns."

3. Conflict Management Training: Training about ADR introduces employees to ADR and educates them on how to request and participate effectively in ADR. Typically this involves a half-day to a day of training. Training about conflict management gives employees knowledge and skills that will enable them to prevent destructive conflict, and to use problem-solving techniques. In FY 2001, all but two of the agencies and mission areas offered training, reaching 5,115 employees. Although training in this area often focuses on conflict among employees, conflict management skills training can be equally effective in assisting USDA employees in dealing with their external customers.

Within APHIS, our employees are called upon to inform U.S. citizens that trees on their property need to be destroyed for pest or disease control. CPR provided training to 69 employees ...who are charged with delivering this type of message. The training focused on effective conflict management, customer service, and communication and resulted in employees being equipped to better handle the operation at hand. Evaluations from the participants were very favorable.

4. Total Employees Served: Based on data received, over 10,000 USDA employees were served in FY 2001 by some type of ADR or conflict management service – approximately 10 percent of the USDA population.

TABLE 5: FY 2001 Total Employees Served

Type of service	Number of events	Number of people served (low estimate)
ADR Services – Early Intervention	3,734	5,243
ADR - Informal EEO	165	330
ADR - Formal EEO	76	152
Training	177	5,115
Total	4,152	10,840*

** A small portion of this number is presumed to include some employees being counted for more than one event.*

B. PROGRAM CONFLICT

While much of USDA's focus on ADR in the past several years has been in the area of workplace disputes, the use of ADR to resolve program disputes has a rich history at USDA, and continues to evolve in the 21st Century.

1. Certified State Mediation Program: The Certified State Mediation Program, administered by the Farm Service Agency (FSA), is an example of a collaborative state-federal program that serves the public. Since 1987, USDA has certified and provided matching grant funds to states that offer mediation services for a variety of agricultural conflicts, many of which directly involve USDA. The disputes involve agricultural credit, grazing, crop insurance, wetlands, conservation, rural housing and business loans, and farm program compliance. Only issues enumerated in the legislation or designated by the Secretary are eligible for mediation under this program. In FY 2001, the number of state programs certified by FSA increased to 28, with California, New York, and Massachusetts joining the ranks.

A USDA Rural Housing borrower was laid off from his job. This borrower had sent in a partial payment every month in an attempt to make the house payment. While the borrower was working, his income was at a level where he was ineligible for payment assistance. The borrower did not advise the agency of his loss of income. When the loan was in monetary default, the agency accelerated the loan towards foreclosure. The borrower and his representative wanted to make a payment arrangement with the agency so the acceleration would be cancelled. During mediation, after careful review of the facts and the account history, the agency determined that the borrower could be a successful homeowner and agreed to permit the borrower the opportunity to apply for payment assistance to determine if he was eligible based on his new income. Also, the agency allowed him the opportunity to enter into a Delinquency Workout Agreement. All parties signed an agreement and the adverse decision was cancelled.

Based on data collected from the state mediation providers, in FY 2001 the Certified State Mediation Program provided mediation services in 4,400 conflicts, of which 3,608, or 82 percent, reached agreement. Farm credit disputes made up over 90 percent of the caseload, with conservation reserve program, crop insurance, grazing, rural housing, and other disputes making up the balance.

A minority farmer was denied a low-interest rate and not allowed to restructure his farm loan after a decade of delinquency with the FSA program. The borrower had contacted a lawyer. In mediation, it became clear that the principal problem was lack of communication between FSA and the borrower. The farmer did not understand some of the financial issues, including redoing the terms and conditions of his FSA loan. The mediator was able to get the parties to sit down, discuss the options available to each, and restructure the loans to the satisfaction of all parties. FSA did not have to defend itself in court, nor did the case require any substantial loan write-off for the agency.

In September 2001, the National Association of State Departments of Agriculture (NASDA) issued a statement strongly supporting expansion of the Certified State Mediation Program. Citing reductions in funding of certain farm programs, NASDA predicted an "increase [in] levels of frustration, anger, and fear experienced by these families whose resources are already stretched, creating additional demands for a positive alternative to resolving disputes with the USDA." NASDA urged the Secretary to authorize "all agricultural disputes approved by individual state mediation programs as eligible under the USDA grant program."

2. Produce Disputes: Another program area utilizing ADR involves "reparations" complaints between buyers and sellers of produce under the Perishable Agricultural Commodities Act (PACA). Over 25 Agricultural Marketing Service (AMS) employees have received mediation training and provide mediation services to buyers and sellers as a quicker avenue for resolving disputes that would otherwise go through a formal investigative and adjudicative process conducted by USDA. Frequently, the mediations are conducted by telephone. In FY 2001, AMS settled approximately 85 percent of the 2,898 informal complaints

that it closed. Of that amount, AMS reports having provided ADR services in the great majority, with a high percentage of resolutions.²

3. Other Program Conflicts: Although the number and scope of other USDA program conflicts in which USDA has utilized ADR is not known, ADR has been used in natural resources conflicts, land disputes, and civil rights complaints, to name a few. These other areas hold great promise for the use of collaborative resolution processes, and will benefit from additional focus in FY 2002. By way of example, in FY 2000, at the request of NRCS, CPRC provided ADR assistance with a decade-old conflict. In a few months, the conflict was resolved to the mutual satisfaction of NRCS, OGC, and local landowners. The resolution reportedly saved million dollars.

III. Barriers to The Use of ADR

While progress has been made at USDA in promoting and utilizing effective conflict management practices, such as ADR, barriers exist that keep USDA from taking full advantage of the opportunities that are available. One goal of CPRC's upcoming project to evaluate ADR programs at USDA is to document the specific barriers. Based on current knowledge and experience, there are three obvious barriers to effective management of conflict, including the use of ADR, in USDA:

1. **Lack of knowledge/skills.** Most USDA employees lack sufficient knowledge and skills to change the way in which they manage conflict. Many employees have not been trained in conflict management and "interest-based" problem solving, nor has there been an effective way to ensure that these skills are used in the workplace. In addition, if employees are to trust that it is safe to use new conflict management skills, they need to see those same skills modeled by those higher in the organization.
2. **Resistance to change.** Resistance to change comes from a lack of knowledge, a lack of clearly enunciated expectations, and, to some degree, a basic aversion to changing the status quo. USDA as a whole has not made clear its expectations about how the organization will manage conflict and why these changes are needed, or enunciated clear accountability measures. With the high degree of decentralization at USDA, this is an especially challenging task.
3. **Lack of resources.** In some agencies, a lack of resources has limited ADR efforts. USDA has not ensured that all agencies devote adequate funding to allow the ADR program(s) to meet the needs of employees and customers. In addition to staffing and program expenses, there is another kind of resource need: ADR program managers need to have access to top levels of their agency's leadership if they are going to be able to have the influence and ability to address the organizational causes of conflict. Currently, such access is not always available.

² On a related note, following the passage of NAFTA, a non-profit entity called the Fruit and Vegetable Dispute Resolution Corporation was created to provide dispute resolution services for produce disputes involving companies from Canada, Mexico, and the United States. ADR is an integral part of those services.

IV. Next Steps

CPRC will continue to lead USDA's efforts to provide high quality conflict management services, to explore untapped areas for using ADR, and to promote consistency in the services available to employees and customers. Experience has shown, however, that the degree of decentralization in USDA makes achievement of these tasks challenging, at best.

CPRC believes that USDA's realization of the fruits of an effective conflict management/ADR program can be achieved by pursuing the following four goals. Some of the steps for achieving the goals are in place, while others are being pursued. Still other needed actions and resources are dependent upon decisions from USDA's highest levels.

A. Increase the Prevention and Earliest Possible Resolution of Workplace Conflict

Educating people about how to resolve conflict is an excellent means of prevention. In FY 2002, supervisors and managers will be exposed to conflict management skill building as part of the completion of the delivery of the FY 2001 mandatory civil rights training. Also in FY 2002, CPRC will work with the Office of Civil Rights to design and implement a simple introduction to ADR that will be mandatory for all USDA employees.

In addition, while the number of workplace disputes resolved in ADR without the filing of a complaint or grievance has continued to rise at USDA, that number is still relatively small in comparison to the *known* volume of conflicts that end up in the EEO complaint or grievance systems, and even smaller when the *unknown* volume of conflicts is considered. CPRC will continue to promote the concept of prevention and early resolution, and will continue meeting with and briefing senior agency officials – especially new ones – to discuss conflict management and to ascertain what assistance and services they would like their agencies to receive.

B. Increase the Resolution of Informal EEO Complaints Through ADR

A significant opportunity is being missed to resolve conflicts during the informal stage of the EEO complaint process, before those conflicts escalate further and enter a potentially lengthy formal complaint process. Roughly half of the 1509 informal EEO complaints filed in FY 2001 became formal complaints. Only 90 informal EEO complaints were settled through the use of ADR in FY 2001. **See Appendix A.** In FY 2002, CPRC intends to work with the Office of Civil Rights in leading efforts to expand the use of ADR to resolve many of those complaints early and effectively. Critical to this is ensuring that agencies offer ADR to a much greater percentage of complainants than in prior years, and maximizing the likelihood that complainants will elect ADR once it is offered. Some of the key steps include:

- Clarifying the responsibilities of EEO counselors in offering ADR to complainants;
- Providing educational tools to potential participants in the EEO complaint process explaining the availability of ADR and how ADR works;
- Providing complainants the option of using an ADR program outside their own agency;

- Tracking ADR usage and non-usage in the EEO complaint process.

C. Increase Usage of ADR to Resolve Program Disputes

The Certified State Mediation Program has been successful over the course of thirteen years in addressing conflicts between USDA and farmers and other customers. Still, there are thousands of other conflicts between USDA and external individuals and entities – farmers, ranchers, contractors, environmental interests, loggers, licensees – that could be resolved quickly and collaboratively through ADR, thereby avoiding unnecessary expense, delays, deteriorating relationships, and a sometimes tarnished public image for USDA.

In FY 2002, CPRC will complete publication of the Agricultural Mediation success stories compiled by George Mason University, and will disseminate them to expand the awareness of how mediation can be effectively utilized in conflicts with farmers and ranchers. Also, CPRC will continue an assessment it began with the Forest Service in FY 2001 concerning the need for ADR services, and expand assessment services to other USDA agencies.

Finally, CPRC will:

- Promote agency use of the services of the U.S. Institute of Environmental Conflict Resolution through an Interagency Agreement;
- Promote training opportunities, such as a joint effort with the Department of Interior and the University of Michigan in collaboration in natural resources conflicts;
- Offer mediation, facilitation, and dispute systems design assistance to agencies; and
- Establish a USDA-wide Program ADR Team to collaborate on a national ADR Plan.

D. Evaluate ADR Programs to Improve Delivery of ADR/Conflict Management Services

CPRC has taken preliminary steps to develop and implement an evaluation, with two primary goals in mind. The first goal is to have an evaluation process that provides USDA leaders with information about how ADR is working in the resolution of workplace conflicts, so that future decisions about ADR are based on sound data. The second goal is to provide information to ADR program managers to assist them with program improvement. CPRC, together with the Indiana Conflict Resolution Institute at Indiana University, will conduct an assessment with leaders throughout USDA to ascertain their needs in connection with the evaluation. The intention is to use this data to complete evaluation design by June 2002, followed by a three-year period of data collection and analysis.

V. Conclusion

The untapped potential for more effective management and resolution of conflict at USDA is tremendous. ADR programs in most agencies are growing in response to the great need for collaborative resolution of conflict. CPRC is available to assist with, and provide guidance relating to, any conflict or situation facing any part of USDA. We welcome suggestions for areas where we should be placing greater emphasis, and look forward to reporting additional progress in FY 2002.

**FY 2001: SUMMARY DATA BY AGENCY
USDA ALTERNATIVE DISPUTE RESOLUTION**

Data Source: Agency Quarterly ADR Reports as of 1/15/02

	AMS	APHIS	DA-OSEC	FAS	FNS	FS	FSA	FSIS	GIPSA	NFC	NRCS	OIG	REE	RD	RMA	Total
Early Intervention																
Number of Consultations	22	1433	17	19	46	469	534	8	18	205	15	7	188	3	0	2984
Number of mediations	15	81	19	2	1	188	41	11	0	4	12	0	26	4	0	419
No. of agreements *	5	78	8	1	0	159	30	10	0	1	10	0	19	4	0	325
No. that did not result in resolution *	1	0	2	0	1	37	4	1	0	3	2	0	5	0	0	56
Number of all other ADR processes																
No. of resolutions or agreements **	0	11	4	0	9	47	2	2	0	87	1	0	0	0	0	163
Number of large group interventions	4	59	3	1	0	16	4	0	0	0	0	0	4	0	0	91
No. of people served	64	590	73	12	0	140	33	0	0	0	0	0	29	0	0	941

EO-Formal																
Number of complainants that were offered ADR	13	30	0	4	10	275	17	60	32	26	36	10	61	132	0	706
No. of complaints that went through ADR	1	12	4	2	0	46	8	60	0	15	10	2	3	2	0	165
No. of complaints settled in ADR	3	2	4	1	0	23	6	35	0	7	5	0	2	2	0	90
EO-Formal																
Number of complainants that were offered ADR	4	25	0	0	5	11	2	8	5	0	27	0	0	4	0	91
No. of complaints that went through ADR	4	5	6	0	0	16	2	8	5	0	27	0	1	2	0	76
No. of complaints settled in ADR	4	4	1	0	0	9	2	8	3	0	17	0	1	2	0	51

Complaint Management Training																
Number of Training Sessions	13	29	7	12	2	50	8	9	0	28	2	0	15	1	1	177
No. of employees trained	303	1531	101	249	32	1622	350	200	0	468	30	0	527	10	16	3115

* The totals in these two lines do not add up to the total number of mediations due to some cases being still open.

** Not all ADR processes lead to agreements.

APPENDIX B

FY 2001 Summary of Accomplishments

In FY 2001, USDA ADR programs made significant strides in the effort to manage workplace and customer conflict more effectively. Some of the accomplishments include:

- Increased number of workplace conflicts resolved using ADR
- ADR services provided to 5,725 USDA employees
- Training about ADR and conflict management provided to 5,115 employees
- ADR services provided in thousands of program disputes involving USDA customers
- The issuance of a comprehensive Departmental ADR Regulation,
<http://www.usda.gov/osio/directives/DR/DR4710-001.htm>
- The issuance of a revised Departmental EEO complaint manual containing policy on ADR,
<http://www.usda.gov/osio/directives/DM/DM4300-001.htm>
- Publication of "Dealing with Workplace Conflicts and Concerns: A Guide for Employees,"
<http://www.usda.gov/spre/brochure/pdf> (also attached to this Report)
- Congress' reauthorization of the Certified State Mediation Program legislation
- Receipt of two prestigious awards from outside USDA
- Contracts signed with nationwide mediators to expand ADR capability in EEO complaints
- Inclusion of a conflict resolution module in the annual civil rights training for supervisors
- Conducted Forest Service needs assessment for conflict resolution in program disputes
- Second annual national training conference for USDA mediators of workplace conflict
- E-government initiatives (ADR case management system, database of neutral resources)
- Contracted for ADR evaluation to assess effectiveness and effect program improvements

APPENDIX C

FY 2001 Accomplishments in Support of Direct ADR/Conflict Management Services

A. Departmental ADR Directives

In July 2001, CPRC issued USDA's first permanent Departmental Regulation on ADR, DR 4700-001, Alternative Dispute Resolution. This regulation establishes USDA's policy on the use of ADR to prevent and resolve workplace and program conflicts. The issuance of the regulation was a collaborative effort with the Secretary's ADR Working Group, ADR program managers, and union representatives.

Also in July 2001, the Office of Civil Rights, in collaboration with CPRC, issued its modified equal employment opportunity (EEO) Complaint Processing Manual, DM 4300-01. The amendments implement new Equal Employment Opportunity Commission regulatory requirements and make ADR a permanent part of USDA's EEO complaint process. They provide that agencies will offer ADR to employees in the informal stage of the complaint process as an alternative to traditional EEO counseling in all but rare circumstances.

B. Agency Policies

Two agencies and mission areas issued policies supporting the use of ADR in 2001. The new Natural Resources Conservation Service policy promotes the use of ADR in both workplace and program disputes. Rural Development's policy pertained specifically to the use of ADR in program disputes, such as those relating to rural housing and business loans.

C. Agricultural Mediation Legislation

In November 2000, the Grain Standards and Warehouse Improvement Act of 2000 (Public Law No. 106-472) was signed into law. This legislation reauthorized the Certified State Mediation Program through 2005. This popular mediation program enables producers, ranchers, and others doing business with USDA to utilize mediation, rather than litigation, to resolve disputes involving USDA programs, as well as other disputes involving agricultural issues.

D. Other Key Initiatives and Developments

1. **USDA ADR Programs Recognized:** USDA's ADR efforts were recognized with prestigious awards twice in FY 2001. In October 2000, the Director of the Office of Personnel Management (OPM) honored the National Finance Center (NFC) with its annual OPM Directors Award for

Outstanding ADR Programs. NFC's program was honored for its unique Inclusion University, conciliation program, and other innovations in conflict resolution.

In January 2001, *The Communicator Awards* honored the USDA video, "A Better Way," with an Award of Distinction in its 2000 Video Competition. *The Communicator Awards* is a national awards program founded by communications professionals to recognize excellence in the communications field. The video demonstrates how employees can use mediation to address conflicts informally, before they develop into "me against you" situations. CPRC, in collaboration with Office of Communications, produced the video for use by all USDA employees. (see <http://www.usda.gov/cprc>)

2. Nationwide Contracts to Mediate EEO Complaints: Under USDA's recently issued ADR directives, a significant increase of ADR usage in the EEO complaint process is expected. Although great use will be made of no-cost neutrals – for example, mediators provided by Federal Executive Boards – CPRC completed a procurement and entered into Blanket Purchase Agreements with six experienced mediation providers listed on the General Service Administration's Schedule.

3. ADR Program Evaluation: For several years, CPRC has collected some basic data from agency ADR programs. In FY 2001, CPRC, in collaboration with agency ADR program managers, concluded that a comprehensive evaluation of ADR at USDA was needed (1) to provide program improvement information to ADR program managers, and (2) to provide information to USDA leaders about the overall performance and cost-benefit in human and monetary terms of using ADR. CPRC entered into a contract with the Indiana Conflict Resolution Institute at Indiana University, an experienced evaluator of ADR programs, to conduct the evaluation.

4. Environmental Conflict Resolution: CPRC has largely completed work on an interagency agreement between USDA and the U.S. Institute for Environmental Conflict Resolution, a federal entity with a Congressional mandate to assist federal agencies in resolving natural resources conflicts. The agreement will be used as an umbrella agreement for specific projects or activities, and will complement an existing agreement between the Institute and the Forest Service.

5. Forest Service Needs Assessment: CPRC began meeting with key representatives from the Forest Service to explore how the agency has been using ADR and other collaborative processes, and to assess how greater use of collaborative problem solving could assist in promoting the agency's mission with respect to natural resources, the environment, and public land management. Based on these discussions, and other data collection, CPRC has drafted recommendations for the agency's consideration. In a related effort, the Forest Service's Collaboration Support Team, established in 2001, will be recommending changes in policy and practice that will focus on collaboration as a fundamental aspect of the agency's mission.

6. Agricultural Mediation Success Stories: The George Mason University's Institute for Conflict Analysis and Resolution researched and collected testimonials from a number of mediators, farmers, attorneys, and USDA employees regarding their experiences in the Certified

State Mediation Program over the past few years. The experiences, which include farm credit disputes involving FSA, grazing disputes with the Forest Service, and housing disputes with Rural Housing Service, are being compiled in a collection of stories for distribution to USDA personnel to demonstrate the value and possibilities of collaborative resolution of disputes. These stories will be published in FY 2002.

7. E-government Initiatives: USDA has begun to take advantage of the important role automated systems have in the delivery of ADR and other conflict management services. For example, they can be instrumental in case tracking and in locating mediators in even remote parts of the country. A few examples of USDA's use of E-government in ADR include:

- CPRC's use of electronic reporting forms to obtain conflict management activity data from throughout USDA enables CPRC to organize data for reports such as this.
- Inspired by the Forest Service Early Intervention Program's web-based case tracking system, CPRC awarded a contract for the development of a web-based ADR Case Management Information System. The system will also allow employees or USDA customers to initiate on-line requests for conflict resolution services.
- CPRC has developed a network-based database system that will facilitate the faster location of qualified mediators and other ADR neutrals for USDA disputes around the country.
- On-line conflict management training is provided to USDA managers and supervisors.
- ADR and conflict management websites educate and provide resource information to employees and customers. For example, NRCS's website has slides from its ADR briefings.

8. Federal ADR Council: The Federal ADR Council, convened by the Attorney General, issued government-wide ADR guidance on confidentiality in ADR. The guidance establishes expectations for ADR practitioners and participants as to what information discussed or provided in ADR is confidential. It is especially significant to USDA where, for several years, tension has existed between the Office of the Inspector General (OIG) and State Certified Mediation Programs over the respective needs of confidentiality of ADR programs on the one hand, and OIG access to information on the other. CPRC and OIG began discussions in August 2001 on how these two sets of needs can be reconciled at USDA.

E. Training and Education

One of the keys to an effective conflict management and ADR program is ongoing training and education. This includes skill building for practitioners, managers and supervisors, and increasing knowledge of conflict resolution options that are available to potential disputants. Below are a few of the training and education initiatives that took place in FY 2001:

1. USDA Employee Workplace Guide: CPRC, with support from several USDA agencies and offices, designed and published "Dealing with Workplace Conflicts and Concerns - A Guide for

Employees.” Copies of the Guide were distributed to USDA employees around the country. The Guide highlights ADR and how it can help resolve problems early and includes a synopsis of other formal options for handling workplace disputes. The intent is to provide employees with information that will enable them to elect the most appropriate route for addressing workplace problems. (See attachment to this report.)

2. Conflict Management Training: AMS, APHIS, DA-OSEC, FAS, FNS, FS, FSA, and FSIS provided 177 sessions on conflict management and ADR awareness training to supervisors and employees as part of their ongoing efforts to deal more effectively with conflict. Also, as part of USDA’s annual civil rights online training for FY 2001, the Office of Civil Rights included conflict management as a module for managers and supervisors. This training is being delivered in FY 2002.

3. Second Annual National Mediator Training Conference: CPRC, in collaboration with several agency ADR programs, held the second annual National Mediator Training Conference on September 11-13, 2001. The conference, which was attended by approximately 130 USDA employees who are trained mediators, featured an exciting array of speakers. Less than an hour into the conference, the terrorist attack on the Pentagon occurred less than half a mile from the conference site. In the wake of the attack, many local attendees went home, others chose to stay, and over 50 attendees who came from around the country were stranded. The conference quickly shifted from teaching about conflict to responding to conflict in our midst. Staff and presenters worked collaboratively with attendees to find ways to deal with shock and grief, and then to explore various approaches that can effectively support employees within USDA.

4. Agricultural Mediation Training: A number of the Certified State Mediation Programs, including those in Iowa, Michigan, Arizona, and Kansas, conducted a variety of ADR trainings in 2001. These included the training of agricultural mediators to training of USDA field employees on the use and value of the mediation process. USDA personnel from FSA, NRCS, and other agencies assisted in some of these trainings.

5. Conflict Management/ADR Websites: Several websites exist at USDA that provide information and resources relating to conflict resolution and ADR. CPRC’s website, <http://www.usda.gov/cprc/>, provides information on USDA conflict management policies and programs, tips on managing conflict, a video, and includes links to other relevant resources. APHIS <http://www.aphis.usda.gov/opd/cpr.html> , NRCS <http://www.info.usda.gov/nrcs/mgmt/adr.htm> , and REE <http://www.afm.ars.usda.gov/coopres/> operate other websites, while others appear on agency intranet sites.

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